

A. G. Contract No. KR02-0031TRN
ADOT ECS File: JPA 01-193
Project No.: CM-GIL-0-(009)P
TRACS No.: 0000 MA GIL-SS503 02R
Section: Park and Ride
(Oak Street/Page Street)

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF GILBERT

THIS AGREEMENT is entered into 30 January, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF GILBERT acting by and through its MAYOR and TOWN COUNCIL (the "Town")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not limited to, transportation enhancements including roadside attractions of historic preservation.

4. The Town has submitted and meets the Federal Highway Administration (FHWA) requirement for approval of federal funds, to proceed with the acquisition of right of way for a Park and Ride within the Town, herein referred to as the "Project".

5. Such federal funds, estimated at \$318,000.00, are identified in the Maricopa Association of Governments (MAG) Transportation Improvement Program (TIP) / State Transportation Improvement Program (STIP) as (ID # GLB00-003 for federal fiscal year (FFY) 2001, shown as Exhibit A, attached hereto and made a part hereof.

6. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

NO. 25120
Filed with the Secretary of State
Date Filed: 01/30/02

Betsy Bayless
Secretary of State

By Vicky D. Hansen

7. The Town, in order to obtain federal funds for the acquisition of right of way for the project, is willing to provide Town funds to match federal funds in the ratio required or as finally fixed and determined by the Town and FHWA. It is understood and agreed to by the parties herein, authorization of this Project does not constitute a commitment, guarantee or obligation on the part of the State.

8. The work embraced in this agreement, to be administered by the Town, and the estimated costs are as follows:

Right of Way Acquisition

Estimated Project Cost	\$318,000.00
Federal Aid Funds @ 94.3% of \$318,000.00	\$299,874.00
Town Funds @ 5.7% of \$318,000.00	\$ 18,126.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for acquisition.

a. **When** such project is approved by FHWA and the funds are available for the project, the Town with the aid and consent of the State and the FHWA will proceed to acquire the right of way necessary for the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the FHWA. The State will enter into a Project Agreement with FHWA covering the work embraced in said right of way acquisition and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the Town shall be obligated to incur any expenditure in excess.

2. Prior to the commencement of right of way acquisition, the Town shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of right of way acquisition, the Town shall provide for, at its own cost and as an annual item in its budget, appropriate and proper maintenance.

4. The Town shall allow public access to the completed project and grounds during normal business hours.

5. The Town will provide personnel to supervise the acquisition of right of way.

6. The Town will complete the acquisition project in accordance with the requirements of the relevant State and federal statutes, rules, or regulations. In the event the Town fails to comply with any relevant State or federal statutes, rules, or regulations, the Town shall hold the State harmless from any claims or costs incurred by the State as a result of the Town's failure to comply.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the project, any engineering in connection therewith, cost over-runs and claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the right of way acquisition covered by this agreement is to be borne by FHWA and Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, Town agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows


Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Town of Gilbert
Town Manager
1025 S. Gilbert Road
Gilbert, AZ 85926

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF GILBERT

By 
STEVEN M. BERMAN
Mayor

STATE OF ARIZONA

Department of Transportation

By 
CATHERINE J. HEGEL
Contract Administrator

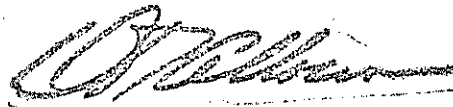
ATTEST

By 
CATHY TEMPLETON
Town Clerk

RESOLUTION

BE IT RESOLVED on this 29th day of November, 2001, that I, the undersigned, VICTOR M. MENDEZ, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Gilbert, for the purpose of defining responsibilities for the acquisition of federal funds for the use and benefit of the Town for the acquisition of right of way for a Park and Ride within the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contractor Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group

for VICTOR M. MENDEZ, Director

APPROVAL OF THE TOWN OF GILBERT ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF GILBERT and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 18 day of December, 2001.

Jason D. Gordon

~~Asst.~~ Town Attorney

Gilbert Park-and-Ride Projects

(FY 2001-2005 and FY 2002-2006 MAG Transportation Improvement Programs)

Phase	Proj#	Year	Location	Description	Funding	Federal	Local	Total
Design	GLB01-206T ¹	2001	60 (Superstition Fwy) at Val Vista Dr	Pre-design regional park-and-ride (US-60/Val Vista) (EA already underway)	CMAQ	61,800	15,450	77,250
					Match	80.0%	20.0%	100.0%
	GLB02-201T ²	2002	60 (Superstition Fwy) at Val Vista Dr	Design regional park-and-ride (US-60/Val Vista)	CMAQ	\$180,778	\$45,194	\$225,972
					Match	80.0%	20.0%	100.0%
Right-of-Way Acquisition	GLB00-003 ⁴	2001	Regionwide	Acquire ROW for Park and Ride	STP-AZ	299,874	18,126	318,000
					Match	94.3%	5.7%	100.0%
	GLB03-203T ¹	2001	60 (Superstition Fwy) at Val Vista Dr	Advance acquire land regional park-and-ride (US-60/Val Vista)	Local	0	1,333,127	1,333,127
	GLB03-203TX ³	2003	60 (Superstition Fwy) at Val Vista Dr	Repayment of land acquired for regional park-and-ride (US-60/Val Vista)	CMAQ	\$1,066,502	-\$1,066,502	\$0
					Total Match	\$1,066,502 80.0%	\$266,625 20.0%	\$1,333,127 100.0%
Construction		2003	60 (Superstition Fwy) at Val Vista Dr	Advance construct park-and-ride (US-60/Val Vista)	Local	\$0	\$2,397,334	\$2,397,334
					STP-Flex	\$1,917,867	-\$1,917,867	\$0
	GLB04-204TRX ³	2004	60 (Superstition Fwy) at Val Vista Dr	Repayment of park-and-ride construction (US-60/Val Vista)	Total Match	\$1,917,867 80.0%	\$479,467 20.0%	\$2,397,334 100.0%

- Notes: 1. TIP Amendment Number Four to the FY 2001-2005 MAG Transportation Improvement Program
2. Page VIII-2 of the FY 2002-2006 MAG Transportation Improvement Program
3. Page VIII-3 of the FY 2002-2006 MAG Transportation Improvement Program
4. TIP Amendment Number Two to the FY 2001-2005 MAG Transportation Improvement Program

12/12/2001



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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JANET NAPOLITANO
ATTORNEY GENERAL

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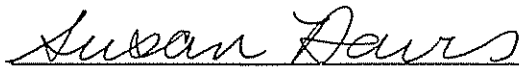
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-0031TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED: January 14, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

721091

Enc.